



# Information Letter



FOR N. C. A. MEMBERS

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### An Important Service Available to Members

For a number of years the National Canners Association has maintained for its membership a service for the prompt investigation of cases involving claims for damages on account of illness or injury alleged to be due to canned foods. This service is available to all members without charge. Such investigations are greatly facilitated if the claims are promptly reported to the Association, thus permitting the investigators to obtain pertinent information and evidence that might be lost with the lapse of time.

Should canners prefer to make their own investigations, they are earnestly requested to furnish the Association with the essential facts developed by the investigation; particularly the nature of claim, the name and address of the claimant, and claimant's attorney and physician. This information is especially useful to the Association in order that it may have as complete a record as possible of individuals making claims and of attorneys and physicians handling such cases.

Upon completion of each investigation the canner concerned is furnished with a report upon the case. While every effort is made to obtain all pertinent facts, canners who receive reports may have some suggestions to offer or may notice some points upon which additional information might be desirable. The Association will be glad to have such suggestions, for they will be very helpful in making the investigations more complete and more satisfactory to all concerned.

### Consumer Complaints in New York State

A prominent firm of lawyers in New York city who have had a great deal of experience in matters relating to foods, kindly furnished the following information regarding the situation in New York, which will be of interest to members who may receive complaints from consumers there and be threatened with a lawsuit.

1. The defendant in such case is entitled to a verified statement of particulars from the plaintiff giving details on particular points which make up the plaintiff's claim.

2. The defendant is entitled to an inspection of the article which caused the alleged injury, if the article is available.

3. The defendant is entitled to a physical examination of the plaintiff before trial by physician for the purpose of determining the nature of any disability the plaintiff claims to be suffering. Of course, where the injury has been of only a temporary nature resulting in a complete recovery, there is generally no use in having such an examination.

4. While the defendant may claim the right to examine the plaintiff before trial, this right is limited to securing of information in order to prove the defendant's case, but is not permitted in order to disprove the plaintiff's case. For example, the defendant would probably not be permitted to examine the plaintiff by question and answer in order to prove that the former had not been negligent, but if the defendant claimed that prior to the suit he had made settlement with the plaintiff, obtained a release and therefore had a defense for this reason, he would be allowed to examine the plaintiff to try and prove that such settlement had been made and a release given.

5. Either party in a suit has the right, previous to trial, to take the testimony by deposition from persons residing outside the state, as such persons cannot be subpoenaed. Both parties have the right to question any witness examined in this manner.

The situation in New York is regarded as reasonably satisfactory as far as the rights of the defendant are concerned in getting information from a plaintiff before trial. On the other hand, there is very little information which such plaintiff could ordinarily get from a defendant in cases of this kind.

### Final Hearing on Duty on Dried Lima Beans

The Assistant Attorney General in charge of Customs, 641 Washington Street, New York City, has advised the Association

that on June 18 there will be a final hearing before the Board of General Appraisers on the question of duty to be assessed on dried lima beans imported from Madagascar.

Importers claim that these beans are not mature lima beans and that they should be assessed as "beans not especially provided for, green or unripe, one-half of one cent per pound." The Government appraiser classified them as "Lima and butter beans, dried and packed in bags and packets" at one and three-fourths cents per pound.

The Assistant Attorney General has written to the Association asking if it could furnish him with names and addresses of witnesses dealing in beans of this kind at wholesale, who would be available to the Government for the purpose of testifying that the beans involved in this protest are bought and sold as dried beans and that they are not known as unripe or immature beans.

Canners who are interested in the above hearing should communicate immediately with the Assistant Attorney General's office, referring to protest 59539-G re beans.

#### Retain Their Goodness After Eighteen Years

Up to the North Pole and back with Admiral Peary eighteen years ago, yet still sound, sweet and of excellent flavor—that is the record of three cans of baked beans, salmon and corn opened by Austin, Nichols & Company at a meeting of their salesmen on May 15.

At this meeting announcement was made of the fact that the Byrd Arctic Expedition, which had so quickly and brilliantly attained to success, had been supplied with the company's foods and, that for the second time these foods had sustained daring and successful quest for the Pole.

The Peary Expedition of 1909 was referred to and the fact that Austin, Nichols & Company had furnished the famous discoverer of the North Pole with the groceries that went with him on that final and successful voyage, an undertaking that will stand through all time as one of the most remarkable feats in the annals of heroic endeavor.

From under lock and key were brought three tins of Austin, Nichols & Company canned foods that had been to the North Pole with Admiral Peary in 1909. There was a No. 3 tin of baked beans, a No. 1 tall tin of Columbia River salmon, and a No. 2 tin of corn. The tins were cut and passed around the

meeting for inspection. The splendid condition of the contents was a revelation. The baked beans were as sound and sweet as though they were packed in 1926 instead of 1907—the actual year of packing. The corn was firm and tender and without flaw in flavor. Some slight fading in color was apparent in the Columbia River salmon, but there was no breaking down of texture and taste and smell could detect no evidence of deterioration.

In this demonstration there was remarkable evidence of the worth, the serviceableness, and the keeping qualities of high-grade canned foods under almost unbelievably trying conditions of arctic travel and subsequent holding through nearly two decades.

#### Navy's Annual Purchases of Canned Foods

In his address at the luncheon for the Board of Directors at their recent meeting in Washington, Secretary Wilbur stated that the Navy Department was a large purchaser of canned foods, and he paid a high tribute to their quality. The Secretary mentioned that he had had prepared a statement showing the amount of various food materials packed in cans that is purchased annually for the Navy, and he has since very courteously furnished the Association with these figures, which are given below. As will be noted, the list includes some articles which are not, strictly speaking, canned foods, but which are packed in cans. The total purchases of all these foods, as shown by the following statement, amount to nearly 35,000,000 pounds.

Article	Pounds	Article	Pounds
Apricots .....	832,695	Oil, cottonseed .....	700,000
Asparagus .....	821,584	Peaches .....	1,650,871
Applesauce .....	730,597	Pears .....	1,036,845
Bacon .....	586,018	Peas .....	1,944,533
Beans, string .....	1,361,880	Prunes .....	788,307
Beef, corned .....	1,166,774	Baking powder .....	101,487
Butter .....	678,728	Pineapple .....	1,332,881
Biscuits .....	148,570	Pumpkin .....	353,282
Beets .....	594,906	Raisins .....	244,219
Beef, dried, sliced .....	263,555	Salmon .....	833,752
Corn .....	1,823,900	Sauerkraut .....	636,905
Cheese .....	97,818	Sirup .....	71,300
Codfish and haddock .....	138,612	Spinach .....	532,337
Catsup .....	207,877	Sardines .....	160,024
Figs .....	315,000	Sausage, Vienna .....	428,380
Flour, wheat .....	1,514,209	Spices, assorted .....	85,000
Jams, assorted .....	1,272,889	Vegetable shortening .....	1,709,632
Milk, evaporated .....	5,885,847	Tomatoes .....	3,874,517

### Bulletin Sent to Pea Cannery

At the request of the Raw Products Bureau of the National Cannery Association, the Wisconsin Experiment Station has kindly agreed to send a copy of Bulletin 382, entitled "Leading Commercial Varieties of Canning Peas", to each pea cannery who is a member of the National Cannery Association. Brief mention of this bulletin was made in Information Letter 162.

### Enforcement of Cuban Canned Milk Regulations Discontinued

The Department of Commerce has been advised that the Sanitation Department of Cuba has now revoked, by circular, its previous notification that enforcement would be made of the provision in the sanitation regulations requiring date of preparation to be stamped on all cans of condensed milk. This does not revoke the actual provision in the sanitary regulations, but signifies that the Sanitation Department appreciates the impracticability of the provision and does not intend to enforce it. It is presumed, the Department of Commerce states, that the concurrent provision which requires the maximum period of good condition to be likewise stamped, will also not now be enforced.

### Canned Milk Trade of Great Britain

Canned milk imports into Great Britain for the first three months of 1926 were 67,661,208 pounds, as compared with 54,719,168 pounds in the corresponding period last year. Of the total imports, 8,745,296 pounds were unsweetened and 58,915,912 pounds sweetened.

### Liability of Bank on Dishonored Checks

In a case involving the loss on a dishonored check, the U. S. Supreme Court has affirmed the decision of lower federal courts, holding that when a bank accepts out-of-town checks on a condition that they are credited subject to final payment, upon receiving the negotiable paper the bank becomes a creditor of the depositor and not its agent.

### Classification of Imported Tomato Paste

In the item which appeared in Information Letter No. 160, May 15, 1926, under the head "Customs Classification of Tomato Paste," it was stated that the Association was in communication with the Assistant Attorney-General in charge of Customs, offering to assist in any way possible in supporting the position of the Government on this matter. We have now

been advised by the Assistant Attorney-General that in cases appealed from the Board of General Appraisers to the Court of Customs Appeal, the Court considers and acts entirely on the evidence submitted at the Board hearing and, therefore, it is impossible for the Association to submit additional evidence or to assist in this particular case. However, should a decision adverse to the Government be rendered in this case, which will probably not be heard before next Fall, the Association will prepare to take such further action as seems advisable to protect the interests of its members.

#### **Regulations for Foreign Language Labeling of Spanish Products**

Goods of Spanish manufacture which are labeled in a foreign language are required by Royal Decree of April 13 to bear the name and address of the manufacturer and failure to comply renders the manufacturer liable to criminal action, according to the American Commercial Attache at Madrid. Foreign manufacturers using foreign language labels are already required to give the same information on their products.

#### **Association Withdraws from Freight Rate Case**

Notice has been filed, in accordance with the action of the Board of Directors at their meeting on May 20, to withdraw the name of the National Cannery Association as a party complainant in Interstate Commerce Commission Docket 17776, which has been set for hearing at Chicago on June 28.

#### **Arbitration Under Federal Act**

Enquiries received by the Association have shown that canners are not entirely familiar with the conditions requisite to procedure under the United States Arbitration Act. Recourse can be had to the provisions of this Act under the following conditions:

1. The contract in question must be dated after January 1, 1926.
2. The amount involved must exceed \$3,000.
3. The shipment must have been in interstate commerce.

If an arbitration clause has been incorporated in a contract and the foregoing conditions have been met, either of the parties to the contract can compel an arbitration. Otherwise, they probably can not compel an arbitration unless the state in



which the contract was made has a statute making an agreement to arbitration enforceable in the courts.

#### Imports of Tomatoes from Italy

The total imports of canned tomatoes into the United States during April were 3,777,345 pounds, of which 3,775,400 pounds valued at \$207,887 came from Italy. This is the lowest amount imported in one month so far this year, according to figures compiled by the Department of Commerce: Tomato paste imports for April were all from Italy and amounted to 1,715,983 pounds valued at \$141,563. During the first quarter of the year imports of Italian canned tomatoes amounted to 21,662,153 pounds and tomato paste imports were 4,414,763 pounds. For the four months the imports of Italian canned tomatoes were accordingly 25,437,553 pounds and of tomato paste 6,130,746 pounds.

#### Car Loadings

Loadings of revenue freight were again above the million mark for the week ending May 22. They totaled 1,039,385 cars, an increase of 9,223 cars over the preceding week and of 52,079 cars over the corresponding week last year.

#### Canada's Milk Industry

Canada now has thirty-four establishments for the manufacture of condensed and evaporated milk and milk powders. The output of these products in 1924 was valued at \$9,710,017.

